IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORIGINAL SIDE

APPEAL NO.411 OF 2004
IN
NOTICE OF MOTION NO. 1376 OF 2002
IN
SUIT NO.6381 OF 1999

Mr. Somnath Tukaram Gejage — Appellant
vs.
1. Shri Surajmani Kurmi Patel & ors. — Respondents

Mr. S. D. Thokade for the appellant.

Mr. U.S.R. Singh for the respondent no.1.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ

DATED : 19th August 2004

P.C.

Heard.

2. During the course of motion hearing, the learned counsel for the original plaintiffs (first respondent herein) submitted that the original plaintiff is not desirous of pressing prayer (e) in the suit. Prayer (e) in the suit reads thus:

> "(e) For Decree and Order directing the Defendant no.3 to transfer their shares and membership existing in the name of Defendant no.2, namely Shri Somnath Tukaram Gejage, as in case of others, to the name of Plaintiff."

3. We accept the statement of the learned counsel for original plaintiff (first respondent) that prayer (e) is not being pressed by the original plaintiff in this suit. In view thereof, the impugned order does not call for any interference.

4. Appeal is dismissed accordingly.

(R.M. LODHA, J.)

(J.P. DEVADHAR,J.)